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SIPDIS

SENSITIVE

HARARE FOR BRUCE WHARTON
DEPARTMENT FOR WHA/CEN AND CA/OCS

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SUBJECT: AMCIT LAND DISPUTE IN ALTA VERAPAZ

REF: GUATEMALA 884

1. Summary. "Finca Esmeralda," a coffee farm in Alta Verapaz province owned by Carlos Ardebol, and AmCit, has been occupied since February by organized landless peasants who have damaged personal property and prevented the return of the Ardebol family. There are of over 40 such occupations by peasants in the province, several of which involve the Ardebol family. While Ardebol appeals to the courts to defend his right to property, his family has abandoned the property for the capital, fearing for their security. Since being notified by the Ardebol family of this land dispute in February, the Embassy has actively pursued resolution of the case. On February 12, responding to the initial occupation, PolOff contacted the occupying campesino group leader to express concern over AmCit safety and property rights; on March 17 EconCouns accompanied the Ardebols to a session with campesino lawyers at the land dispute agency (CONTIERRA); on March 27 ConGen met with Carlos Ardebol and the representative of the peasant organization in Coban, the provincial capital; and on March 31, the Ambassador raised the case with the Minister of Government (RefTel), who pledged to investigate property damage and to act quickly on any court-ordered dislodgment order. On April 30, PolOff learned of ongoing Government efforts to mediate the case through dialogue with the squatters. End Summary.

Status of Case -----

2. PolOff spoke on April 30 with Eric Gonzalez, CONTIERRA's Coban representative to inquire about the status of the Finca Esmeralda case and to express concern about the forcible entry and trashing of Carlos Ardebol's house. According to Gonzalez, CONTIERRA held a successful meeting on this conflict on April 29, in which Carlos Ardebol and CONIC representatives (Mario Garcia and Hector, but not Arturo Chok, who could not make it) agreed to the following measures:

-- Ardebol will suspend demands in the criminal courts while pursuing dialogue.

-- CONIC will conduct an investigation into the damages to Ardebol's personal property.

-- Ardebol will develop an inventory of his possessions and his own report on the damage.

-- Both sides will next meet on May 15 at CONTIERRA for further mediation. Members of the community which claims the right to passage through the ranch on private roads will also attend, and more fundamental issues about the occupation (which continues) will be discussed.

PolOff congratulated Gonzalez for these results, expressed concern for the Ardebol's property rights as U.S. citizens, and told him the Embassy will be in touch after May 15 to hear how that meeting goes.

Background -----

3. On February 11, EconCouns and LabAtt met with Mrs. Ardebol and her adult sons (Carlos and Roger). EconCouns told them he had raised their security concerns with the Vice Minister of Government. They had had no contact or other evidence of follow-through. LabAtt told the Ardebols he had raised similar concerns with the national campesino coordination organization (CONIC). The Ardebols explained that they had decades-old problems with which they were dealing satisfactorily and new, CONIC inspired problems involving people not originally from the area. Violence and threats appeared with CONIC, they claimed. The new problems date back a couple of months, no more. They said that their case was similar to others in Alta Verapaz, which has experienced a spate of land occupations over the past year. They claim that they provide right of way on the road through their land (which we had heard was an issue for a neighboring town) but were increasingly being harassed when they closed the road for the night.

14. The Ardebols say that they have clear title to most of the land they claim, some if it going back within the family for over one hundred years. Some dual-title land was reportedly cleared in their favor by CONTIERRA, with whom they have been in continuing contact. The Ardebols claim several properties in San Miguel Tucuru, Alta Verapaz province, including finca Esmeralda, Finca Bella Vista, and Finca Coyocte.

Embassy Expresses Concern About AmCit Safety

15. On February 12 PolOff spoke with Juan Tiney, CONIC's national leader, and again expressed Embassy concern for the safety of the Ardebol family as American citizens. PolOff explained the Embassy's responsibility to protect U.S. citizen property rights. Threats to the Ardebol's security came from campesinos blocking a road on Finca Coycote approximately a month ago. The Ardebols are committed to dialogue and negotiation as a means to resolve campesino claims to their land. PolOff urged CONIC to attend a meeting to be held in Coban to discuss the dispute, hosted by the authorities. The Ardebol's are alarmed by reports that campesinos organized by CONIC have recently occupied Finca Bella Vista, and claim that tension and threats have increased since CONIC appeared in the area, mentioning specifically CONIC regional organizer Miguel Perez Chiquin. The land and labor courts are the proper venues for land and labor claims. Political dialogue is possible through the National Roundtable on Agrarian Conflict to be conducted on February 13 by the Presidential Secretary for Agrarian Issues.

16. Tiney responded that he understood Embassy concerns, and that he gave similar priority to security of members of CONIC. He repeated assurances that CONIC does not and will not threaten the security of anyone, but said that "properly announced" measures such as road blockades must be respected.

He expressed appreciation that the Embassy was involving itself in this issue, and urged us to tell American citizens to respect Guatemalan law and labor obligations. He claimed that the occupation of Finca Bella Vista involves former workers there who had not been paid mandatory severance by the Ardebols. After the GOG refused to take responsibility by accepting CONIC's Agrarian Platform proposal, campesinos occupied the finca to demand land in lieu of what they are legally owed. CONIC would be pleased to attend the meeting in Coban on February 21 if invited, he said; the National Roundtable meeting is "just a show" and CONIC was undecided whether to attend.

EconCouns Meets with CONTIERRA on Dispute

17. On March 17, EconCouns arranged a call on the Director General of CONTIERRA, Gustavo Ciraiz, and arrived to find himself in a meeting including the Ardebols and lawyers from CONIC. CONTIERRA (somewhat reluctantly) supported the Ardebol's allegation that CONIC-associated campesinos were acting outside the law, destroying property, and "torpedoing" (CONTIERRA's word) a peaceful resolution. CONIC lawyers backed off their original position and admitted that excesses had occurred and undertook to look into matters. CONIC's lawyers asked the Ardebol's for information on any destruction or other problems caused by the campesinos. They made some surprisingly condescending statements about campesinos' ability to understand the legal points and the ease with which they could be whipped up by politically motivated leaders who did not necessarily have their best interest at heart. CONIC lawyers also admitted (at the end) that Ardebols had made good faith efforts to resolve old problems and may have good points with current ones.

18. CONIC's lawyers stated that they were part of a pressure group that sought solutions, when necessary, "outside of normal legal means." EconCouns laid a polite but firm marker that the U.S. Constitution and Guatemala's gave no quarter to "pressure" for deciding issues of private property ownership.

He questioned the need to "negotiate" property ownership when it was likely that administrative and/or legal processes would determine, without doubt, who had legal title. EconCouns applauded CONTIERRA's efforts to finish its land registry research quickly and conduct a "mini-cadaster" of the area to back it up. Perhaps negotiations would be useful once the research was finished and areas of legitimate uncertainty were identified, he said.

Ambassador's Meeting with Minister of Government

19. RefTel reports the Ambassador's request to Minister of Government Reyes Calderon in a meeting on March 31 to investigate the forcible entry and property destruction on the Ardebol property, and the Minister's pledge to act as soon as a court rules authorizes it.

Consul General Finds Common Ground

110. ConGen Jacobsen and PolOff met with Carlos Ardebol, CONIC and CONTIERRA/Coban on March 27 to discuss the Finca Esmeralda case. ConGen received assurances from all parties of their willingness to meet to discuss peaceful resolution of this land dispute.

111. Carlos Ardebol told ConGen that he remains cut off from access to his farm, located an hour from Coban, and that he and his family have relocated temporarily to Guatemala City. He filed a complaint with the local office of the Public Ministry about the damage to his household goods by squatters (he showed us pictures of the inside of his farmhouse, which had ransacked). Though he is seeking intervention by the MP, Ardebol is realistic about prospects for police action, and was also meeting with MINUGUA and local representatives of the Human Rights Ombudsman's office. He said he would be willing to meet with CONIC's local organizers if CONTIERRA calls a new meeting. He agreed to permit ConGen to share his cell phone number with CONIC to facilitate direct communication.

112. ConGen and PolOff then met at CONTIERRA's Coban offices with Arturo Chok, CONIC's local organizer responsible for the Finca Esmeralda dispute. EmbOffs expressed USG concern about the security of U.S. citizens, the violation by squatters of his right to property, and the needless destruction of his personal effects. Chok admitted with bowed head that he was "aware of what happened at the Ardebol's house" and that "this is not what CONIC stands for." Later, Chok said he was not sure who had trashed the house and put up the CONIC banner now hanging on the Ardebol's property warning people to stay out, saying "outsiders" may have been responsible. CONIC does not support such measures, he said. CONIC does support the claims of the squatters to land, which involves "historic" rights to free passage, which he distinguished from the "legal" rights asserted by the Ardebols. ConGen told Chok that the USG and the Embassy are involved in many initiatives in support of human and labor rights in Guatemala, including US visas, so CONIC's aggression against an AmCit could have repercussions far beyond Coban.

113. Asked by PolOff if he would be willing to meet with Ardebol, Chok said he would do so, under CONTIERRA's auspices, as long as the right of free access (to a road the Ardebol's built through their property) is also up for discussion. We passed him Ardebol's contact information. In Chok's presence, we thanked CONTIERRA (Carlos Echeverria) for its recent efforts to bring the parties to this dispute together and requested that a new attempt be made. Echeverria agreed to raise this request with his boss, Eduardo Gonzalez. PolOff then called Carlos Ardebol and conveyed Chok's offer to meet under CONTIERRA's auspices, and suggested he contact Gonzalez.

Comment

114. The issue of AmCit safety is covered for the moment: the Ardebol family is in Guatemala City, far from Coban, and Ardebol said only he makes forays into Coban as he pursues this issue.

115. The land title issue is complicated, but not as complicated as CONTIERRA is making it. The documents show that the family bought a number of adjacent parcels of land one-by-one and then consolidated them into two different farms. However, a poorly delineated land grant from the 1800s forms the basis for 59 small plots occupied by non-Ardebols, and the plots are not now adjacent to one another. These plots have migrated and grown over time and, together, account for substantially more than the original land grant. Issues of adverse possession (squatters rights) probably apply. The Ardebols accept that some negotiation will be necessary to resolve this once CONTIERRA establishes who is on what plot where. They would like to clarify title to what is and isn't theirs and, probably, sell to others the portions in the area that are still theirs.

116. The good news is that the GOG has not overreacted to the growing land occupation movement by resorting to the use of force, which could inflame the situation. The bad news is that the GOG has not acted at all, from the Ardebol's perspective. CONTIERRA's machinations to determine title issues have moved at a snail's pace, while the Ardebol's property rights continue to be violated by squatters as efforts to enforce eviction orders come to naught. In this situation, dialogue and negotiation still offer an alternative means of dispute resolution, but the Ardebol's patience could soon run out. We will continue to monitor and advocate progress in this case.

MCFARLAND